HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
HON'BLE SRI JUSTICE N.V.SHRAVAN KUMAR

W.P.No.792 of 2017

ORDER: ***(Per Hon'ble Sri Justice Abhinand Kumar Shavili)***

This Writ petition is filed seeking the following relief:

> "..... **to** issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Certiorari to call for the records relating to passing of impugned Order dated 21.11.2013 in O.A.No.5014 of 2010 consequently declare all consequential actions taken by the respondents upon liberty once again conferred by the Andhra Pradesh Administrative Tribunal, Hyderabad for conducting of departmental enquiry against the petitioner into her alleged unauthorized absence from duty for which the respondents alone are responsible, even though the respondents have deliberately failed to comply with the order in availing the said same liberty as earlier conferred by the Tribunal *vide* their order dated 02-03-2010 made in O.A.No.6822 of 2006 as being illegal, arbitrary, unconstitutional being violative of Articles 14, 15, 16 and 21 of Constitution of India besides also being violative of equity, conscience and principles of natural justice and also suffering from infirmity and incurable irregularity and double jeopardy and consequently set aside the impugned order dated 21.11.2013 in O.A.No.5014 of 2010 to the extent of liberty as once again conferred on the respondents to conduct departmental enquiry against the petitioner which is not possible without causing miscarriage of justice and without causing consequential hardship and irreparable loss to the petitioner herein and consequently direct the respondents to pay all consequential benefits to the petitioner including back wages, promotions and all other benefits without any further delay in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case as otherwise the petitioner shall be put to irreparable loss besides the justice being stultified."

Heard learned counsel on either side.

It is the case of the petitioner that she is working as Multipurpose Health Assistant. Earlier, she was declared as deemed to have resigned her services *vide* order dated 01.05.2010. Challenging the same, she has filed O.A.No.5014 of 2010 before the Andhra Pradesh Administrative Tribunal, Hyderabad. The Tribunal *vide* order dated 21.11.2013 set aside the impugned order dated 01.05.2010 issued by the 5th respondent and also the appellate authority order dated 19.05.2010. However, the Tribunal has given liberty to the respondents to initiate appropriate action for the alleged unauthorized absence of the petitioner from duty subsequent to cancellation of her deputation strictly in accordance with APCS (CC & A) Rules, 1991. Challenging the same, the present writ petition is filed by the petitioner.

Learned counsel appearing for the petitioner had contended that while setting aside the impugned order dated 01.05.2010 issued by the 5th respondent as well as the appellate authority order dated 19.05.2010 passed by the 2nd respondent, the Tribunal ought not to have granted liberty to the respondents and the respondents would misuse the liberty granted by the Tribunal and therefore, he prays that only that

portion of the order whereby liberty was granted to the respondents to initiate appropriate action be set aside.

Learned counsel appearing for the petitioner had informed this Court that during pendency of the writ petition, the respondents have initiated fresh disciplinary proceedings for unauthorized absence of the petitioner and imposed major penalty of stoppage of five annual increments *vide* proceedings dated 30-12-2016 and the petitioner had challenged the said proceedings before this Court by filing W.P.No.18721 of 2020 and the same is pending before this Court.

Learned Government Pleader appearing for the respondents had contended that the Tribunal has rightly granted liberty to the respondents while allowing the OA and the order passed by the Tribunal needs no interference by this Court.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the view that the Tribunal has set aside the proceedings issued by the 5th respondent *vide* order dated 01.05.2010, whereunder the 5th respondent has issued proceedings to the effect that the petitioner was declared as deemed to have resigned.

Insofar as granting liberty is concerned, at this point of time, this Court cannot set aside that portion of the order of the Tribunal as the respondents have already initiated proceedings and imposed the punishment of stoppage of five annual grade increments with cumulative effect on the petitioner *vide* proceedings dated 30.12.2016, which has already been challenged by the petitioner by filing W.P.No.18721 of 2020 and the same is pending before this Court.

In view of the subsequent development, the cause in the writ petition does not survive for adjudication.

Therefore, the Writ Petition is closed. No costs.

Miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI,J

N.V.SHRAVAN KUMAR,J

Date: 28.07.2022
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